

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alyssa Rogowski	Team: Squad #7	CCRB Case #: 201901352	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/06/2019 4:50 PM	Location of Incident: Beaver Street between Fayette Street and Ellert Street	Precinct: 90	18 Mo. SOL 8/6/2020	EO SOL 3/23/2021	
Date/Time CV Reported Wed, 02/13/2019 12:16 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 02/13/2019 12:16 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Manetta	11047	956069	090 PCT
2. POM Shane Wynn	14864	956340	090 PCT
3. SGT Gregg Minardi	00608	940475	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Shane Wynn	Abuse: Police Officer Shane Wynn stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Shane Wynn	Abuse: Police Officer Shane Wynn stopped the vehicle in which § 87(2)(b) was an occupant.	
C.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi stopped the vehicle in which § 87(2)(b) was an occupant.	
D.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi stopped the vehicle in which § 87(2)(b) was an occupant.	
E.POM Daniel Manetta	Abuse: Police Officer Daniel Manetta stopped the vehicle in which § 87(2)(b) was an occupant.	
F.POM Daniel Manetta	Abuse: Police Officer Daniel Manetta stopped the vehicle in which § 87(2)(b) was an occupant.	
G.POM Shane Wynn	Abuse: Police Officer Shane Wynn frisked § 87(2)(b)	
H.POM Shane Wynn	Abuse: Police Officer Shane Wynn searched § 87(2)(b)	
I.POM Shane Wynn	Abuse: Police Officer Shane Wynn searched the vehicle in which § 87(2)(b) was an occupant.	
J.POM Shane Wynn	Abuse: Police Officer Shane Wynn searched the vehicle in which § 87(2)(b) was an occupant.	
K.POM Shane Wynn	Abuse: Police Officer Shane Wynn failed to provide § 87(2)(b) with a business card	
L.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card	
M.POM Daniel Manetta	Abuse: Police Officer Daniel Manetta failed to provide § 87(2)(b) with a business card	
§ 87(4-b), § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

### Case Summary

On February 13<sup>th</sup>, 2019, § 87(2)(b) filed this complaint online with the CCRB.

On February 6<sup>th</sup>, 2019 at 4:50pm, § 87(2)(b) and his brother, § 87(2)(b) were driving on Beaver Street between Fayette Street and Ellert Street in Brooklyn when they were pulled over by Police Officer Shane Wynn, Police Officer Daniel Manetta, and Sergeant Gregg Minardi, all of the 90<sup>th</sup> Precinct (**Allegations A - F: Abuse of authority,** § 87(2)(g)). When the officers approached the vehicle, PO Wynn stated that he smelled weed, then instructed § 87(2)(b) to exit the vehicle. PO Wynn frisked (**Allegation G: Abuse of Authority,** § 87(2)(g)) and allegedly searched § 87(2)(b) (**Allegation H: Abuse of authority,** § 87(2)(g)). Sgt. Minardi had § 87(2)(b) exit the vehicle, then Sgt. Minardi, PO Manetta, and § 87(2)(b) and § 87(2)(b) all stood by the trunk while PO Wynn searched the vehicle (**Allegations I and J: Abuse of authority,** § 87(2)(g)).

After PO Wynn searched the entire vehicle, § 87(2)(b) and § 87(2)(b) were allowed to leave the scene without any summonses. PO Wynn, Sgt. Minardi, and PO Manetta failed to provide RTKA cards to § 87(2)(b) as required (**Allegations K - M: Abuse of authority,** § 87(2)(g), § 87(4-b), § 87(2)(g)).

The investigation obtained body-worn camera footage capturing the entirety of this incident from PO Wynn, PO Manetta, and Sgt. Minardi (Board Review 07, 08, 09).

### Findings and Recommendations

**Allegation A—Abuse of Authority: Police Officer Shane Wynn stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation B—Abuse of Authority: Police Officer Shane Wynn stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation C—Abuse of Authority: Sergeant Gregg Minardi stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation D—Abuse of Authority: Sergeant Gregg Minardi stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation E—Abuse of Authority: Police Officer Daniel Manetta stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation F—Abuse of Authority: Police Officer Daniel Manetta stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation G—Abuse of Authority: Police Officer Shane Wynn frisked § 87(2)(b)**

**Allegation H—Abuse of Authority: Police Officer Shane Wynn searched § 87(2)(b)**

**Allegation I—Abuse of Authority: Police Officer Shane Wynn searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation J—Abuse of Authority: Police Officer Shane Wynn searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) recalled that when they were pulled over, they had been traveling in § 87(2)(b)'s car and § 87(2)(b) had been driving (Board Review 01, 02). By the time officers approached, § 87(2)(b) and § 87(2)(b) had already lowered the driver's side and passenger windows and had their hands visible. § 87(2)(b) immediately showed the officer on the passenger side, identified by the investigation as Sgt. Minardi, his badge and identified himself as a member of service. Sgt. Minardi asked where he worked and § 87(2)(b)

§ 87(2)(b) explained that he was with § 87(2)(b). The officer who had approached the

driver's side door, identified as PO Wynn, then told § 87(2)(b) that he smelled weed. § 87(2)(b) denied they had been smoking in the vehicle prior to being stopped and stated that neither he nor his brother smoke at all. § 87(2)(b) denied that there was any marijuana in the vehicle.

PO Wynn then told § 87(2)(b) to step out of the vehicle, which he did, and officers walked § 87(2)(b) to the rear of the vehicle. After about five minutes, Sgt. Minardi instructed § 87(2)(b) to step out of the vehicle and stand by the trunk. § 87(2)(b) was never searched. § 87(2)(b) and § 87(2)(b) stood by the trunk of their vehicle facing away from their vehicle with Sgt. Minardi and PO Manetta, then PO Wynn searched the passenger compartment and the center console, which § 87(2)(b) watched out of his peripheral vision. Sgt. Minardi and PO Manetta stayed by the trunk and made small talk during which § 87(2)(b) learned that the officers were from the 90<sup>th</sup> Precinct. § 87(2)(b) and § 87(2)(b) were then instructed to get back into the vehicle. § 87(2)(b) asked for the keys and the officers told him to wait, then searched the trunk. The officers then informed § 87(2)(b) and § 87(2)(b) that they were free to go and returned the keys.

§ 87(2)(b) § 87(2)(g) recalled that as the officers were approaching, he rolled down all four windows. He asked PO Wynn why he was being pulled over and PO Wynn responded that his windows were a little dark. PO Wynn then asked if they had been smoking, stated that it smelled like weed, and asked if they had weed in the car. § 87(2)(b) denied both. In his interview, § 87(2)(b) denied that they had smoked weed in the vehicle earlier that day, stating that he never smokes in the car because it is new and that he would never have been driving around with his brother, who has a badge, had he been smoking. § 87(2)(b) stated that if anything, he would have smelled like grease because he had just fried some chicken. § 87(2)(b) did not smell weed in the area but said that they were right across from the projects when they were stopped. PO Wynn had him step out of the car, then he patted down § 87(2)(b)'s pant pockets and jacket pockets, then went into his jacket pockets and looked through his wallet. § 87(2)(b) then stood at the trunk with § 87(2)(b) and observed PO Wynn search in his glove compartment, the visors, and under the seats. After about two minutes, § 87(2)(b) and § 87(2)(b) were instructed to get back into the car. Once they got into the car, § 87(2)(b) realized that the officers had taken the key. His vehicle is a push-to-start and the key had been in the cupholder throughout the incident. The officers used the key to search the trunk then returned the key and let them go.

§ 87(2)(b) added that at the time of the incident, he did have post-production tints on all four windows of his vehicle. While it is possible to see through the tints, he has been stopped for them before, though has never been issued any summonses for them.

§ 87(2)(g) Both PO Manetta and PO Wynn acknowledged having reviewed their BWC from this incident prior to providing statements. Both recalled that PO Wynn had been driving, Sgt. Minardi was in the front seat, and PO Manetta was seated behind PO Wynn. They had been travelling on Flushing Avenue when PO Wynn first observed the vehicle, a black four door sedan, with tinted windows. PO Wynn

believed that there was conversation amongst him and his partners about the observed window tints and that it was a collective decision to make the car stop. PO Manetta did not recall who made the decision to stop. PO Wynn activated lights and sirens and pulled the vehicle over on Beaver Street. Neither PO Wynn nor PO Manetta recalled any reason other than the tints for executing the vehicle stop.

Both PO Wynn and PO Manetta recalled that after pulling the vehicle over, PO Wynn approached the driver's door with PO Manetta behind him and Sgt. Minardi approached the front passenger door. PO Wynn recalled that as he approached, the driver lowered the cars windows, making it difficult to assess how dark the tints were but he believed that they were pretty dark. Both PO Wynn and PO Manetta recalled that with the windows down, they could smell an odor of marijuana emanating from the vehicle upon approached. Both stated that the odor did not seem to be emanating from anywhere in particular and neither recalled if the marijuana smelled burnt or unburnt. Both PO Wynn and PO Manetta have received marijuana field test training and both have participated in over 100 marijuana arrests.

PO Wynn believed that he requested § 87(2)(b)'s license and registration, then informed § 87(2)(b) that he smelled marijuana and asked if they had been smoking or if there was a reason the car smelled like marijuana. PO Wynn did not recall what § 87(2)(b) said in response nor did he recall the occupants acknowledging having smoked marijuana. PO Manetta did not recall any conversation about the odor of marijuana. Both officers recalled that shortly after approaching the vehicle, PO Wynn asked § 87(2)(b) to exit the vehicle, which he clarified in his interview was in response to the odor of marijuana emanating from the vehicle. § 87(2)(b) complied and upon him exiting the vehicle, PO Wynn frisked § 87(2)(b)'s pocket areas to confirm that § 87(2)(b) was not armed. PO Wynn denied that he entered § 87(2)(b)'s pockets. PO Manetta did not recall observing PO Wynn enter § 87(2)(b)'s pockets.

PO Wynn then had § 87(2)(b) stand near the trunk of his vehicle with PO Manetta. Around this time, Sgt. Minardi asked the passenger, § 87(2)(b) to exit the vehicle as well and PO Manetta, Sgt. Minardi, and § 87(2)(b) and § 87(2)(b) stood near the trunk. PO Wynn then conducted a search of the passenger compartment of the vehicle, starting with the front driver's side of the car and working his way back to the back seats. PO Wynn did not believe that either Sgt. Minardi or PO Manetta were involved in searching any part of the vehicle and stated they stayed towards the back of the vehicle. PO Manetta did not recall being involved in the search and stated that he had been at the trunk with Sgt. Minardi.

After searching the interior of the vehicle, PO Wynn had § 87(2)(b) and § 87(2)(b) reenter the vehicle, then he searched the trunk. PO Wynn did not recall if he had to obtain the key to search the trunk but noted that during stops, officers will often keep the key for their own safety. When asked why he searched the trunk, PO Wynn stated that the odor of marijuana was emanating throughout the whole vehicle and that the officers needed to find out why there was an odor. When asked if the odor was concentrated in the vehicle or on any of the occupants, PO Wynn stated that from what he smelled, he felt it was coming from the vehicle but that there was an overall pretty strong odor of marijuana. PO Manetta did not recall observing an odor of marijuana on either of the occupants.

PO Wynn did not find any marijuana in his search of the vehicle and did not remember if there was anything else in the vehicle suggestive of the use of marijuana other than the odor. PO Manetta did not recall making any visual observations of anything indicative of the presence of the marijuana and denied that either of the occupants seemed intoxicated or exhibited any signs of

having smoked marijuana. PO Wynn decided to issue § 87(2)(b) and § 87(2)(b) a warning and let them go with no summons, stating in his interview that he did not feel like it was necessary to issue a ticket because the occupants had been calm and cooperative throughout.

Body-worn camera footage received from all three officers captures the entirety of the incident and corroborates PO Wynn's and PO Manetta's statements (Board Review 07, 08, 09). PO Wynn's (Board Review 09) and PO Manetta's (Board Review 07) footage best capture PO Wynn's frisk of § 87(2)(b). While neither video captures PO Wynn entering any of § 87(2)(b)'s pockets, the frame of both videos cuts out at least part of § 87(2)(b)'s body during the search.

§ 87(2)(g)

New York State Vehicle and Traffic Law Section 375, 12-a(b)2 prohibits individuals from driving vehicles the sidewings or side windows of which on either side forward of or adjacent to the operator's seat are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent (Board Review 10).

§ 87(2)(g)

In People v. Chesnut, 43 A.D.2d 260, the Supreme Court of New York, Appellate Division, Third Department decided that the odor of marijuana emanating from a vehicle, when detected by an officer qualified by training and experience to recognize it, constitutes probable cause to search a vehicle and its occupants. (Board Review 11).

§ 87(2)(g)

**Allegation K—Abuse of Authority: Police Officer Shane Wynn failed to provide § 87(2)(b) with a business card.**

**Allegation L—Abuse of Authority: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.**

**Allegation M—Abuse of Authority: Police Officer Daniel Manetta failed to provide § 87(2)(b) with a business card.**

Both § 87(2)(b) and § 87(2)(b) denied receiving anything from any of the officers during this stop.

PO Wynn did not recall if he provided § 87(2)(b) with a RTKA card. He believed that he was equipped with business cards on the date of the incident and to his knowledge, he would have been required to provide a RTKA card in this instance.

PO Manetta was unsure if he was equipped with the RTKA cards or if the cards were part of their protocol at the time of the incident. PO Manetta did not recall offering a card during this

incident. PO Manetta has received training on offering the cards but did not recall when he received that training.

According to Patrol Guide Procedure 203-09, a member of service must offer a Right to Know Act business card upon conclusion of law enforcement activities, except where a summons is issued or an arrest is made (Board Review 12).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 17).
- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 18).
- PO Shane Wynn has been a member-of-service for 5 years and has been a subject in 7 CCRB complaints, two of which (201900335 and § 87(2)(g) are ongoing, and 22 allegations, none of which have been substantiated.
- PO Daniel Manetta has been a member-of-service for 5 years and has been a subject in 6 CCRB complaints, one of which (201900335) is ongoing, and 18 allegations, none of which have been substantiated.
- Sgt. Gregg Minardi has been a member-of-service for 13 years and has been a subject in 12 CCRB complaints, six of which (§ 87(2)(g) 201900335, 201902426, § 87(2)(b) 201906121) are ongoing, and 18 allegations, one of which was substantiated.
  - Case 201806785 involved a substantiated allegation of a frisk. The Board recommended formalized training.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

